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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,209	04/07/2004	Richard Lunak	DB000975-007	7439

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EXAMINER	
NGUYEN, KIMBERLY D	
ART UNIT	PAPER NUMBER
2876	

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/820,209	LUNAK ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kimberly D. Nguyen	2876	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 November 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 15-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Amendment*

1. Acknowledgment is made of Amendment filed November 16, 2005.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 15-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Frederick et al. (US 6,112,502; hereinafter “Frederick”).

Re claims 15-17, 21-25 and 29-30: Frederick teaches a method including:

inputting information into a handheld device (reading device 542 in fig. 55) from indicia (358, 364, 366, 370 in fig. 40; “The reading device 348 is preferably a device for reading machine readable indicia such as bar code” (col. 40, lines 62-63)) on an open shelving system, the information identifying an item to be restocked to the open shelving system (“Alternatively, when all the medical items have been removed from the storage location the user may operate the reading device to read the further indicia adjacent the storage location representative of the condition that all the medical items in the location have been depleted...” col. 6, lines 53-57; col. 41, lines 29-31) (col. 56, lines 51-58; col. 6, lines 12-67; col. 41, line 44 through col. 42, line 53);

inputting a current quantity of the items to be restocked to the handheld device corresponding to the input information (col. 6, lines 53-67);

Art Unit: 2876

transferring the information and current quantity from the handheld device ("These transaction messages are sent to other components of the system..." col. 6, lines 63-67) (figs. 40 and 55; col. 56, line 1 through col. 57, line 49);

automatically comparing the current quantity to a par level of the items to be restocked, for example, Frederick teaches in col. 6, lines 41-67 that

"The storage locations for items that are not tracked to patients are preferably marked to show a desired level or quantity (a "par value") of medical items that should be kept in the storage location. If the level of medical items in the location drops and a user observes that it is below par value, the user may scan the indicia with the reading device. The reading device is preferably configured to treat the scanning of indicia corresponding to a storage location, absent previously inputting data related to a user or a patient, as indicative of a quantity condition at the location which corresponds to the storage location being below par value.

Alternatively, when all the medical items have been removed from the storage location the user may operate the reading device to read the further indicia adjacent the storage location representative of the condition that all the medical items in the location have been depleted. Such a condition is an alternative quantity condition which causes different signals to be generated by the system from those corresponding the first quantity condition. Transaction messages comprised of signals are produced by the reading device corresponding to the different quantity conditions. These transaction messages are sent to other components of the system, and in the case of messages which indicate that a storage location is below par value or depleted, are responded to by restocking the storage location with an additional quantity of medical items."

wherein "the user may scan the indicia with the reading device. The reading device is preferably configured to treat the scanning of indicia corresponding to a storage location, absent previously inputting data related to a user or a patient, as indicative of a quantity condition at the location which corresponds to the storage location being below par value." (col. 6, lines 46-52), that is the indicia is read by the reading device; then the information, which is read from the indicia, is processed/compared with the par value stored within the reading-

Art Unit: 2876

device/computer/component, which is “automatically comparing the current quantity to a par level of the items to be restocked” as set forth in the claim; and

generating a restocking package in response to the automatic comparing, for example,

“Transaction messages comprised of signals are produced by the reading device corresponding to the different quantity conditions. These transaction messages are sent to other components of the system, and in the case of messages which indicate that a storage location is below par value or depleted, are responded to by restocking the storage location with an additional quantity of medical items.” (col. 6, lines 60-67; col. 6, lines 41-67).

Re claims 18 and 26: Frederick teaches the transferring by transmitting the information over a wireless link (col. 45, lines 40-45; col. 8, lines 17-37).

Re claims 19 and 27: Frederick teaches the transferring includes inserting the handheld device into a docking station (cradle 354 in fig. 40) located proximate to the open shelving system (“The reading device is eventually again placed in communication with the network 328. This may be done by returning it to its cradle...” (col. 54, lines 53-56)) (col. 41, lines 1-23; col. 47, lines 1-12).

Re claims 20 and 28: Frederick teaches the method further including selecting information identifying an item not represented by an indicia (e.g., keyboard, mouse, touch screen, spoken word recognition, etc (col. 19, lines 28-33)) on the open shelving system and inputting to the handheld device a current quantity of the item to be stocked in the open shelving unit (col. 19, lines 20-37; col. 17, lines 21-29; col. 40, lines 16-31).

#### ***Response to Arguments***

4. Applicant's arguments filed November 16, 2005 have been fully considered but they are not persuasive.

In response to applicants' argument that "It is respectfully submitted, however, that such passage from Frederick does not teach an automatic comparing step as recited in the pending claims as currently amended wherein the current quantity of an item at a given location is automatically compared with a par level set for the item. Moreover, Frederick does not teach the step of generating a restocking package, in response to the automatic comparing, when the current quantity of an item is below its par level, as is also recited in the pending claims as currently amended." (page 4, 4<sup>th</sup> paragraph), the examiner respectfully disagrees and submits that

"the user may scan the indicia with the reading device. The reading device is preferably configured to treat the scanning of indicia corresponding to a storage location, absent previously inputting data related to a user or a patient, as indicative of a quantity condition at the location which corresponds to the storage location being below par value." (col. 6, lines 46-52),

that is the indicia is read by the reading device; then the information, which is read from the indicia, is processed/compared with the par value stored within the reading-device or computer or component, which is "automatically comparing the current quantity to a par level of the items to be restocked" as explained carefully above by the examiner. Accordingly, the examiner respectfully believes that, given its broadest interpretation, Frederick meets the claimed invention.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

Art Unit: 2876

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

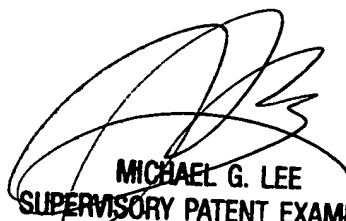
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly D. Nguyen whose telephone number is 571-272-2402. The examiner can normally be reached on Monday-Friday 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



KDN  
January 10, 2006



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